IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 3604 of 1997

Between:

B.V.Subba Rao, S/o.China Lingaiah,

37 years, Working as Junior Assistant

(on daily wage) Potti Sreeramulu

Telugu University, Hyderabad.

..... PETITIONER

AND

The Registrar,

Potti Sreeramulu Telugu University,

Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more in the nature of Mandamus, declaring the action of the Respondent in not regularizing the services of the petitioner in the post of Junior Assistant on par with the persons appointed alongwith the petitioner or Juniors to the petitioner as highly discriminative0, arbitrary and illegal and violative of Articles, 14, 16 and 21 of the Constitution of India, and also direct the respondent to pay the regular scale of pay attached to the post of Junior Assistant on par with the permanent Junior Assistant as per the law laid down by the highest court of the land and to grant all consequential benefits like seniority.

Counsel for the Petitioner:MR.P.V.RAMANA

Counsel for the Respondent : MR.D.V.SITARAMAMURTHY

The Court made the following :

O R D E R:-

This Writ Petition is filed by the petitioner seeking Writ of Mandamus declaring the action of the respondent in not regularising the services of the petitioner in the post of Junior Assistant on par with the persons appointed along with the petitioner, as highly discriminatory, arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India, and consequently sought for a direction to regularise the services of the petitioner as well as to pay the regular scale.

2 . According to the petitioner, he is a graduate. While so, in the year 1988, the petitioner along with others was appointed as Junior Assistant on daily wages. Though the services of all other persons, who were engaged along with the petitioner, were regularised in their respective posts, the petitioner's services were not regularised. In fact, in the year 1989, the petitioner was asked not to attend the office on the premise that he has committed irregularity of not sending the communication as per the directions, though, in fact, the said irregularity was committed by some other employee. It is stated that subsequently, an enquiry was conducted and in that enquiry it came to know that one Ramesh Babu, who is an employee of Khairtabad post office, has committed the offence of stealing a cheque, that was sent by University and encashed it. Thereafter, when the University came to know that the petitioner did not commit any irregularity, he was taken back into service in the year 1993. Thereafter, the petitioner is being continued as a daily wage employee. Even though, the other employees, who were recruited subsequently, were regularised, the petitioner's services were not regularised. Therefore, the petitioner made a representation to the respondent University. As

there was no response to his representation, the petitioner has filed the present Writ Petition.

3. The petitioner also sought for payment of minimum scales of pay and as per the directions of this Court he was paid the minimum scales attached to the post of the Junior Assistant.

4 . According to the learned counsel for the petitioner it is only because of the irregularity or theft committed by an employee of the post office, the petitioner's services were not regularised, though other similarly placed employees were regularised. Therefore, the petitioner sought for a direction to the respondents to regularize his services on par with his juniors.

5. A counter-affidavit has been filed on behalf of the respondent University denying the allegations. It is admitted that the services of the employees, who were recruited along with the petitioner, were regularised during the year 1989-90. It is also admitted that some of the employees, who were recruited subsequent to the petitioner, were also regularised. But, however, at that time, the regularization was made with reference to the post of Typist and the petitioner did not possess the requisite qualification for being regularised as a Typist. Therefore, the petitioner's case was not considered.

6. At the time of arguments, the learned counsel for the respondent University also contended that by virtue of the provisions of A.P. Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure Act, 1994 (Act 2 of 1994), the respondent University has no power to regularise the service of any of the employees. Further, the Government issued G.O.Ms.No.212, under which certain conditions are to be complied with by an employee for being considered for regularisation of his services. Even after the said G.O. is applied, the petitioner would complete the period of five years stipulated under the said G.O. only by 1998, as there was discontinuation in the service of the petitioner from the original date of his engagement. The learned counsel stated that with reference to the other

employees also their services were regularised only with the approval of the Government.

7. Heard both sides and considered the material on record.

8. The grievance of the petitioner is that though the services of the other similarly placed employees were regularised, the petitioner's services were not regularised, though he was originally engaged in the year 1988, as there was a break on certain alleged irregularity, which was later found that the petitioner was not responsible for such irregularity. Therefore, the petitioner sought for a direction to the respondent University to regularise his services on par with other similarly placed employees.

9. Though this matter was heard on earlier occasion, it was adjourned with a direction to the respondent University to find out as to the availability of the vacancies as it was specifically pleaded on behalf of the petitioner that there are existing vacancies of Junior Assistants. On that, the learned Standing Counsel obtained instructions and reported that there are existing vacancies of Junior Assistants. But, however, in view of the provisions of Act 2 of 1994, unless the Government approves the regularisation of the services of the petitioner, the respondent University would not be in a position to regularize the services of the petitioner.

10. It is not in dispute that the services of the persons engaged along with the petitioner by the respondent University were regularised long back. But, however, for no fault of the petitioner, he was denied the same benefit, in view of the fact that certain allegations were made against the petitioner, which were later found to be false. When such is the position, the petitioner is also entitled to be treated on par with the other employees, whose services have already been regularised. Admittedly, there are vacancies of Junior Assistants. Therefore, it would be proper for the University to consider the case of the petitioner for regularizing his services on par with the other similarly placed employees.

11. Accordingly, the Writ Petition is allowed directing the respondent University to regularise the services of the petitioner on par with the other similarly placed persons, whose services have already been regularised, with all consequential benefits. The respondent is further directed to pass appropriate orders, regularising the services of the petitioner expeditiously, preferably within a period of two months from the date of receipt of a copy of this order. No costs.

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(S.ANANDA REDDY, J)

Dated : 02..09..2004.

prv

That Rule Nisi has been made absolute as above.

Witness the Honourable Sri Devinder Gupta, the Chief Justice on this the Thursday, the second day of September Two Thousand and Four.

..... ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Registrar, Potti Sreeramulu Telugu University,

Hyderabad.

2. 2CD copies